

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
CORPUS CHRISTI DIVISION**

United States Courts  
Southern District of Texas  
FILED

JUL - 7 2003

Michael N. Milby, Clerk of Court

UNITED STATES OF AMERICA §  
for the use and benefit of §  
QUALITY HOME IMPROVEMENT, INC. §  
V. §  
LANDMARK ORGANIZATION, L.P., §  
SAFECO INSURANCE COMPANY OF §  
AMERICA, DELPHINI CONSTRUCTION §  
CO., AND GREAT AMERICAN §  
INSURANCE COMPANY §

CIVIL ACTION NO. \_\_\_\_\_

**C-03-251**

**PLAINTIFF'S ORIGINAL COMPLAINT**

TO THE HONORABLE UNITED STATES DISTRICT JUDGE:

Quality Home Improvement, Inc., Plaintiff, files its original complaint against Landmark Organization, L.P., Safeco Insurance Company of America, Delphini Construction Co., and Great American Insurance Company, Defendants, and in support thereof would show as follows:

1.

This action seeks recovery under the Miller Act, 40 U.S.C. § 3131, *et seq.*, to recover for materials that the plaintiff furnished on a public work of the United States. This Court has subject matter jurisdiction of this cause pursuant to 40 U.S.C. § 3133 (b) (3) (B).

2.

The plaintiff is a Tennessee corporation, with its principal place of business in Cordova, Tennessee.

3.

Defendant Landmark Organization, L. P. can be served with process by serving its registered agent for service of process, Mark F. Schultz, 1250 Capital of Texas Hwy South, Suite 100, Austin, Texas 78746.

4.

Defendant Safeco Insurance Company of America may be served with process by serving Leon Crockett, 1600 North Collins Blvd., Richardson, TX 75080-3591.

5.

Defendant Delphini Construction Co. may be served with process by serving its president, Ken Delp, 845 Sunshine Ln, Altamonte Springs, Florida 32752.

6.

Great American Insurance Company may be served with process by serving C T Corporation System, 350 North St. Paul Street, Dallas, Texas 75201.

7.

Landmark Organization, L.P. was the general contractor for the construction of navy housing in Aransas Pass, Texas and Corpus Christi, Texas. The navy housing in question is a "public building or public work of the Federal Government" within the meaning of the Miller Act, and the total amount of the contract exceeded \$100,000. Safeco Insurance Company of America is the surety on Landmark's payment bond on the project.

8.

Delphini Construction was one of Landmark's subcontractors on the project. Great American Insurance Company was the surety on Delphini's payment bond on the project.

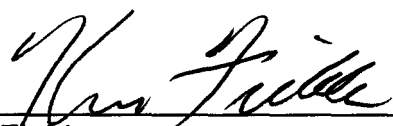
9.

Plaintiff Quality Home Improvement, Inc. was one of Delphini's sub-contractors on the project and provided materials for incorporation into the project,

for which it has not been paid. More than 90 days have elapsed since the materials were provided. Allowing an offset for the salvage value of the materials, the amount owed to Plaintiff is \$33,627.73. Accordingly, Plaintiff seeks payment for such materials from all defendants and also seeks recovery of its reasonable attorneys fees and interest as allowed by law.

WHEREFORE, Plaintiff Quality Home Improvement, Inc. requests judgment that it recover \$33,627.73 from the Defendants, jointly and severally, that it be awarded its costs, attorneys fees, and interest, and that it be granted such other relief to which it may be entitled.

Respectfully Submitted,

By:   
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**ATTORNEY-IN-CHARGE FOR DEFENDANT  
QUALITY HOME IMPROVEMENT, INC.**

OF COUNSEL:

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